

Assembly Bill No. 2746

CHAPTER 577

An act to add Chapter 4.6 (commencing with Section 65965) to Division 1 of Title 7 of the Government Code, relating to natural resources.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2746, Blakeslee. Natural resources: mitigation for adverse impacts.

Existing law authorizes, under various provisions of law, certain state agencies or entities to acquire fee title in land or conservation or open-space easements from property owners to mitigate any adverse impact resulting from the development of a project or facility.

This bill would, notwithstanding any other provision of law, allow a state or local public agency to authorize a nonprofit organization to hold title to and manage an interest in real property that the state or local public agency requires a property owner to transfer to the agency to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, provided the nonprofit organization meets certain requirements.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Numerous state and local laws regulate agricultural lands, wildlife habitat, wetlands, forests, cultural and historic resources, and other natural resources.

(b) A state or local public agency has the authority to review a proposal for the development of a project or facility and to issue a permit authorizing the project or facility to be developed.

(c) A state or local public agency has the authority to impose conditions upon the issuance of a permit to mitigate any adverse impact caused by a permitted activity on lands and resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and cultural or historic resources.

(d) The conditions may include the conveyance of an interest in real property, including, but not limited to, fee title in land, or a conservation or open-space easement, to mitigate any adverse impact of the permitted activity.

(e) It is the intent of the Legislature in enacting this act to clarify existing law that a state or local public agency may authorize a nonprofit organization to hold an interest in real property that a property owner is required to transfer to the agency to mitigate any adverse impact upon natural resources resulting from the development of a project or facility.

SEC. 2. Chapter 4.6 (commencing with Section 65965) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.6. MITIGATION LANDS: NONPROFIT ORGANIZATIONS

65965. (a) For purposes of this section, the following definitions apply:

(1) “Direct protection” means the protection and preservation of natural lands or resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, or outdoor recreational areas.

(2) “Stewardship” encompasses the range of activities involved in controlling, monitoring, and managing for conservation purposes a property, or a conservation or open-space easement, as defined by the terms of the easement, and its attendant resources.

(b) Notwithstanding any other provision of law, if a state or local public agency requires a property owner to transfer to the agency an interest in real property to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility, the state or local public agency may authorize a nonprofit organization to hold title to and manage that interest in real property, provided that the nonprofit organization is all of the following:

(1) Exempt from taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code, and qualified to do business in the state.

(2) A “qualified organization” as defined in Section 170(h)(3) of the Internal Revenue Code.

(3) An organization that has as its principal purpose and activity the direct protection or stewardship of natural land or resources, or cultural or historic resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas.

(c) The recorded instrument that places title with a nonprofit organization pursuant to subdivision (b) shall include, at a minimum, a provision that if the state or local public agency that authorized the nonprofit organization to hold the title, or its successor agency, determines that the interest in real property that is held by the nonprofit organization is not being held, monitored, or managed for conservation purposes in the manner specified in that instrument or in the mitigation agreement between the state or local public agency and the nonprofit organization, the interest in real property shall revert to the state or that local public

agency, or to another public agency or nonprofit organization qualified pursuant to subdivision (b), approved by the state or local public agency.

(d) A state or local public agency shall exercise due diligence in reviewing the qualifications of a nonprofit organization to effectively manage and steward natural land or resources. The state or local public agency may adopt guidelines to assist the agency in that review process.